

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Presented to Parliament pursuant to section 3(2) of
the Immigration Act 1971*

*Ordered by the House of Commons to be printed
20 December 2018*

(This document is accompanied by an Explanatory Memorandum)

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¹STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the rules laid down by them as to the practice to be followed in the administration of the Immigration Acts for regulating entry into and the stay of persons in the United Kingdom and contained in the statement laid before Parliament on 23 May 1994 (HC 395) as amended. The amending statements were laid before, or presented to, Parliament on 20 September 1994 (Cm 2663), 26 October 1995 (HC 797), 4 January 1996 (Cm 3073), 7 March 1996 (HC 274), 2 April 1996 (HC329), 29 August 1996 (Cm 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997 (Cm 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cm 3953), 7 October 1998 (Cm 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cm 4851), 28 August 2001 (Cm 5253), 16 April 2002 (HC 735), 27 August 2002 (Cm 5597), 7 November 2002 (HC 1301), 26 November 2002 (HC 104), 8 January 2003 (HC 180), 10 February 2003 (HC 389), 31 March 2003 (HC 538), 30 May 2003 (Cm 5829), 24 August 2003 (Cm 5949), 12 November 2003 (HC 1224), 17 December 2003 (HC 95), 12 January 2004 (HC 176), 26 February 2004 (HC 370), 31 March 2004 (HC 464), 29 April 2004 (HC523), 3 August 2004 (Cm 6297), 24 September 2004 (Cm 6339), 18 October 2004 (HC 1112), 20 December 2004 (HC 164), 11 January 2005 (HC 194), 7 February 2005 (HC 302), 22 February 2005 (HC 346), 24 March 2005 (HC 486), 15 June 2005 (HC 104), 12 July 2005 (HC 299), 24 October 2005 (HC 582), 9 November 2005 (HC 645), 21 November 2005 (HC 697), 19 December 2005 (HC 769), 23 January 2006 (HC 819), 1 March 2006 (HC 949), 30 March 2006 (HC 1016), 20 April 2006 (HC 1053), 19 July 2006 (HC 1337), 18 September 2006 (Cm 6918), 7 November 2006 (HC 1702), 11 December 2006 (HC 130), 19 March 2007 (HC 398), 3 April 2007 (Cm 7074), 4 April 2007 (Cm 7075), 7 November 2007 (HC 28), 13 November 2007 (HC 40), 19 November 2007 (HC 82), 6 February 2008 (HC 321), 17 March 2008 (HC 420), 9 June 2008 (HC 607), 10 July 2008 (HC 951), 15 July 2008 (HC 971), 4 November 2008 (HC 1113), 9 February 2009 (HC 227), 9 March 2009 (HC 314), 24 April 2009 (HC 413), 9 September 2009 (Cm 7701), 23 September 2009 (Cm 7711), 10 December 2009 (HC 120), 10 February 2010 (HC 367), 18 March 2010 (HC 439), 28 June 2010 (HC 59), 15 July 2010 (HC 96), 22 July 2010 (HC 382), 19 August 2010 (Cm 7929), 1 October 2010 (Cm 7944), 21 December 2010 (HC 698), 16 March 2011 (HC 863), 31 March 2011 (HC 908), 13 June 2011 (HC 1148), 19 July 2011 (HC 1436), 10 October 2011 (HC 1511), 7 November 2011 (HC 1622), 8 December 2011 (HC 1693), 20 December 2011 (HC 1719), 19 January 2012 (HC 1733), 15 March 2012 (HC 1888), 4 April 2012 (Cm 8337), 13 June 2012 (HC 194), 9 July 2012 (HC 514), 19 July 2012 (Cm 8423), 5 September 2012 (HC 565), 22 November 2012 (HC 760), 12 December 2012 (HC 820), 20 December 2012 (HC 847), 30 January 2013 (HC 943), 7 February 2013 (HC 967), 11 March 2013 (HC 1038), 14 March 2013 (HC 1039), 9 April 2013 (Cm 8599), 10 June 2013 (HC 244), 31 July 2013 (Cm 8690), 6 September 2013 (HC 628), 9 October 2013 (HC 686), 8 November 2013 (HC 803), 9 December 2013 (HC 887), 10 December 2013 (HC 901), 18 December 2013 (HC 938), 10 March 2014

¹ This Statement of Changes can be viewed at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>

(HC 1130), 13 March 2014 (HC 1138), 1 April 2014 (HC 1201), 10 June 2014 (HC 198), 10 July 2014 (HC 532), 16 October 2014 (HC 693), 26 February 2015 (HC 1025), 16 March 2015 (HC1116), 13 July 2015 (HC 297), 17 September 2015 (HC 437), 29 October 2015 (HC535), 11 March 2016 (HC 877), 3 November 2016 (HC 667), 16 March 2017 (HC 1078), 20 July 2017 (HC 290), 7 December 2017 (HC 309), 15 March 2018 (HC 895), 15 June 2018 (HC 1154), 20 July 2018 (Cm 9675), 11 October 2018 (HC 1534) and 11 December 2018 (HC 1779).

Implementation

The changes set out in this statement shall take effect on 21 January 2019. However, in relation to those changes, if an application has been made under Appendix EU on or after 1 November 2018 and before 22 December 2018, the application will be decided in accordance with the Immigration Rules in force on 21 December 2018.

Appendix EU shall have effect (except for paragraphs EU12 and EU13 and condition 2 in the table in paragraph EU14, and for the entry for ‘family member of a qualifying British citizen’, for ‘qualifying British citizen’ and for ‘relevant naturalised British citizen’, and for sub-paragraph (c) in the entry for ‘relevant EU citizen’, in the table at Annex 1) in relation to applications made under it on or after 21 January 2019 by an applicant who, at the date of application, is:

- (a) An EU citizen (but not a British citizen) who has a valid passport as a national of that EU country; or
- (b) A non-EU citizen who has been issued by the Secretary of State with a residence card or permanent residence card under the Immigration (European Economic Area) Regulations 2016, on the basis of an application made on or after 6 April 2015.

Review

Before the end of each review period, the Secretary of State undertakes to review all of the relevant Immigration Rules including any Relevant Rule amended or added by these changes. The Secretary of State will set out the conclusions of the review in a report and publish the report.

The report must in particular:

- (a) consider each of the Relevant Rules and whether or not each Relevant Rule achieves its objectives and is still appropriate; and
- (b) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

“Review period” means:

- (a) the period of five years beginning on 6 April 2017; and
- (b) subject to the paragraph below, each successive period of five years.

If a report under this provision is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

“Relevant Rule” means an Immigration Rule which:

- (a) imposes requirements, restrictions or conditions, or sets standards, in relation to any activity carried on by a business or voluntary or community body; or
- (b) relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions or standards which relate to any activity carried on by a business or voluntary or community body.

Change to Part 1

1.1 For paragraph 34QA, substitute:

“34QA. An application under Appendix AR (EU) of these Rules must be made while the applicant is in the UK.”.

Changes to Part 9

9.1 In Part 9, for paragraph D320., substitute:

“D320. Part 9 does not apply to applications made under Appendix EU.

E320. Part 9 does not apply to leave to enter or remain that was granted by virtue of Appendix EU, except for paragraphs 321B and 323(ii), which apply to such leave regardless of the application of paragraph 5 of these Rules.”.

9.2 In Part 9, after paragraph 321A, insert:

“Grounds on which leave to enter or remain which is in force may be cancelled at port or while the holder is outside the United Kingdom

321B. A person’s leave to enter or remain which is in force on his arrival in or while he is outside the United Kingdom may be cancelled:

- (a) If that person has leave to enter or remain in the United Kingdom granted by virtue of Appendix EU; and

(b) The cancellation is justified on grounds of public policy, public security or public health in accordance with regulation 27 of the Immigration (European Economic Area) Regulations 2016, irrespective of whether those Regulations apply to that person (except that for “a right of permanent residence under regulation 15” read “indefinite leave to remain”; and for “EEA decision” read “a decision under paragraph 321B of the Immigration Rules”).”.

Changes to Appendix EU

EU1. At the beginning of Appendix EU, for “**phased implementation – see Statement of Changes HC 1534**” substitute “**phased implementation – see Statement of Changes HC 1849**”.

EU2. In paragraph EU4, in the first bullet point, after “at the date of application” insert “(unless that leave was granted on the basis that they were a **child, dependent parent or dependent relative**)”.

EU3. In paragraph EU11, in sub-paragraph (a) of condition 7, for “**child**” substitute “child”.

EU4. For paragraphs EU15 and EU16, substitute:

“EU15. An application made under this Appendix will be refused on grounds of suitability where any of the following apply at the date of decision:

(a) The applicant is subject to a **deportation order** or to a decision to make a deportation order; or

(b) The applicant is subject to an **exclusion order or exclusion decision**.

EU16. An application made under this Appendix may be refused on grounds of suitability where, at the date of decision, the decision-maker is satisfied that it is proportionate to refuse the application where:

(a) In relation to the application and whether or not to the applicant’s knowledge, false or misleading information, representations or documents have been submitted (including false or misleading information submitted to any person to obtain a document used in support of the application); and the information, representation or documentation is material to the decision whether or not to grant the applicant indefinite leave to remain or limited leave to remain under this Appendix; or

(b) The applicant is subject to a removal decision under the EEA Regulations on the grounds of their non-exercise or misuse of rights under Directive 2004/38/EC.

EU17. The references in paragraphs EU15 and EU16 to an order or decision to which

the applicant is subject do not include an order or decision which, at the date of decision on their application under this Appendix, has been set aside or no longer has effect in respect of the applicant.”.

EU5. In Annex 1, after sub-paragraph (a)(iv) of the entry for ‘child’ in the table, insert:

“; or

(v) a child subject to a permanence order made under section 80 of the Adoption and Children (Scotland) Act 2007 vesting parental responsibilities and parental rights in a person who is; or

(vi) a child who has a guardian appointed under section 7 of the Children (Scotland) Act 1995, or who is living with a person pursuant to an order made under section 11 of that Act, and that guardian or other person is; or

(vii) a child in respect of whom an order has been made under Article 159 of the Children (Northern Ireland) Order 1995, or in respect of whom an appointment has been made under Article 160 of that Order, appointing as their guardian a person who is,”.

EU6. In Annex 1, for sub-paragraph (b)(ii) of the entry for ‘continuous qualifying period’ in the table, substitute:

“(ii) the person served or is serving a sentence of imprisonment of any length in the UK; or”.

EU7. In Annex 1, for the first sub-paragraph (a) of the entry for ‘dependent relative’ in the table, substitute:

“(a) a relative of their sponsor but not the sponsor’s spouse, civil partner, durable partner, child or dependent parent; and the relative is, or (as the case may be) for the relevant period was, a dependant of the sponsor, a member of their household or in strict need of their personal care on serious health grounds; and”.

EU8. In Annex 1, for sub-paragraph (a) of the entry for ‘documented right of permanent residence’ in the table, substitute:

“(a) the person has been issued by the Secretary of State with a document certifying permanent residence or a permanent residence card (and that permanent residence card was issued or renewed within the last 10 years) under regulation 19 of the EEA Regulations, or with a residence permit or residence document under the Immigration (European Economic Area) Order 1994 endorsed to show permission to remain in the UK indefinitely; and”.

EU9. In Annex 1, in sub-paragraph (b) of the entry for ‘documented right of permanent residence’ in the table, delete “was issued or renewed within the last 10 years, and”.

EU10. In Annex 1, in sub-paragraph (e) of the entry for ‘family member of a relevant EU citizen’ in the table, for “**dependent relative**” substitute “dependent relative”.

EU11. In Annex 1, in sub-paragraph (e) of the entry for ‘family member of a relevant EU citizen’ in the table, for “dependency” substitute “the person’s dependency (or, as the case may be, their membership of the household or their strict need for personal care on serious health grounds)”.

EU12. In Annex 1, in the entry for ‘required evidence of family relationship’ in the table, after “spouse” (where it is first used) insert “without a documented right of permanent residence”.

EU13. In Annex 1, in the entry for ‘required evidence of family relationship’ in the table, after “civil partner” (where it is first used) insert “without a documented right of permanent residence”.

EU14. In Annex 1, in the entry for ‘required evidence of family relationship’ in the table, after “child” insert “without a documented right of permanent residence”.

EU15. In Annex 1, in the entry for ‘required evidence of family relationship’ in the table, after “dependent parent” insert “without a documented right of permanent residence”.

EU16. In Annex 1, in sub-paragraph (f) of the entry for ‘required evidence of family relationship’ in the table, for “the relationship and dependency continue to subsist” substitute “the relationship continues to subsist”.

EU17. In Annex 1, for sub-paragraph (b)(i)(bb) of the entry for ‘required evidence of family relationship’ in the table, substitute:

“(bb) (in the case of an EU citizen) their valid national identity card or confirmation that they have been or are being granted indefinite leave to remain or limited leave to remain under this Appendix; or”.

EU18. In Annex 1, for the second sub-paragraph (c) of the entry for ‘required evidence of family relationship’ in the table, substitute:

“(c) where, in order to meet the requirements of this entry, the applicant submits a copy (and not the original) of a document (including by uploading this as part of the required application process), the decision-maker can require the applicant to submit the original document where the decision-maker has reasonable doubt as to the authenticity of the copy submitted”.

EU19. In Annex 1, for the entry for ‘required proof of identity and nationality’ in the table, substitute:

“

required proof of identity and nationality	(a) (in the case of an EU citizen) their valid passport; or (b) (in the case of a non-EU citizen) their valid specified relevant document in addition, 'valid' here means that the document is genuine and has not expired or been cancelled or invalidated
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”.

EU20. In Annex 1, in the entry for 'specified date' in the table, for “2359” substitute “2300”.

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